

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
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2006 MAR -3 A 11:44

Docket No. 05-40103FDS

EILEEN M. ZIEMBA

Plaintiff

Vs.

MARILYN R. DIGREGORIO
DBA THE LIDO RESTAURANT

Defendant

DEFENDANT, MARILYN R. DIGREGORIO d/b/a THE LIDO RESTAURANT
ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND
DEMAND FOR TRIAL BY JURY

PARTIES

1. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the First Amended Complaint.
2. The Defendant denies the allegations contained in paragraph 2 of the First Amended Complaint.

FACTS

3. The Defendant denies the allegations contained in paragraph 3 of the First Amended Complaint.
4. The Defendant denies the allegations contained in paragraph 4 of the First Amended Complaint.
5. The Defendant denies the allegations contained in paragraph 5 of the First Amended Complaint.
6. The Defendant denies the allegations contained in paragraph 6 of the First Amended Complaint.

7. The Defendant denies the allegations contained in paragraph 7 of the First Amended Complaint.

8. The Defendant denies the allegations contained in paragraph 8 of the First Amended Complaint.

9. The Defendant denies the allegations contained in paragraph 9 of the First Amended Complaint.

JURISDICTION AND VENUE

10. The Defendant denies the allegations contained in paragraph 10 of the First Amended Complaint.

11. The Defendant denies the allegations contained in paragraph 11 of the First Amended Complaint.

COUNT I

12. The Defendant realleges and reaffirms her answers to paragraphs 1 through 11 of the First Amended Complaint and incorporates them herein as her answer to paragraph 12, Count I of the First Amended Complaint.

13. The Defendant denies the allegations contained in paragraph 13, Count I of the First Amended Complaint.

14. The Defendant denies the allegations contained in paragraph 14, Count I of the First Amended Complaint.

COUNT II

15. The Defendant realleges and reaffirms her answers to paragraphs 1 through 14 of the First Amended Complaint and incorporates them herein as her answer to paragraph 15, Count II of the First Amended Complaint.

16. The Defendant denies the allegations contained in paragraph 16, Count II of the First Amended Complaint.

17. The Defendant denies the allegations contained in paragraph 17, Count II of the First Amended Complaint.

Defendant demands a trial by jury on all issues of fact raised by any pleadings herein.

AFFIRMATIVE DEFENSES

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That the injuries and damages alleged were caused in whole or in part by the Plaintiff's own negligence, and the Plaintiff is therefore barred from recovery or recovery must be diminished in accordance with the law.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That the injuries and damages were caused in whole or in part by the conduct of person(s) for whom the Defendant is not responsible.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

The Complaint fails to state a claim against the Defendant upon which relief can be granted.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That the court lacks jurisdiction over the subject matter of this action.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That the court lacks jurisdiction over the person of the Defendant.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That there was insufficiency of service of process.

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

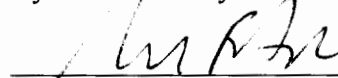
That due notice was not given by the Plaintiff to the Defendant as required by statute.

Defendant

MARILYN R. DIGREGORIO

d/b/a THE LIDO RESTAURANT

By her Attorney



Michael F. Ashe BBO# 561009

Law Office of Donna Gully-Brown

446 Main Street, Flr 19

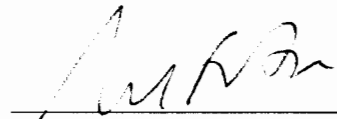
Worcester, MA 01608

(508)753-0306

CERTIFICATE SERVICE

I, Michael F. Ashe, do hereby certify that on February 28, 2006 I served by mailing, postage prepaid a copy of defendant's answer to plaintiff's first amended complaint and demand for trial by jury to:

Counsel for pltf:
Herman T. Bayless, Esq.
118 Main Street
Sturbridge, MA 01566



Michael F. Ashe

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DEFENDANT'S CLAIM FOR JURY TRIAL

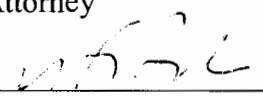
The Defendant, MARILYN R. DIGREGORIO d/b/a THE LIDO RESTAURANT,
demands a trial by jury on all issues.

Defendant

MARILYN R. DIGREGORIO

d/b/a THE LIDO RESTAURANT

By her Attorney



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